THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.24581 OF 2006

Between :

Eti Nagraj son of E.S.Prakash Rao

… Petitioner

And

Visakhapatnam Urban Development Authority, rep. by its Vice Chairman

… Respondent

THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.24581 OF 2006

ORAL ORDER:

Heard Sri A.V.Sesha Sai, the learned counsel for the petitioner and Mrs.Preeti Reddy, the learned Standing Counsel for the respondent-authority.

The petitioner assails the respondent's communication dated.26-10-2006. By the said proceedings the respondent proposed the regularization of allotment of shop Nos.4,5,8 and 9 of Udyog Bhavan Complex("A" block) by way of licence in the petitioner's favour at a stipulated fee. The proceedings also called upon the petitioner to deposit, in addition to the advance security deposit and electricity consumption charges deposit specified, an amount of Rs.2,70,000/- towards the fine (Rs.15,000/- x 18 months) as a condition for regularization. The petitioner is intimated that if he fails to deposit the total amount

specified, the offer would be withdrawn without further correspondence. The petitioner assails this communication to the extent of the deposit of Rs.2,70,000/- towards fine.

The petitioner is not the licensee of shop Nos.4,5,8 and 9. The original licensee was one Mr.Kishan Kaza who is claimed by the petitioner to be his partner. The petitioner fails to mention whether it is a partnership, a limited company or a firm. The petitioner is also not forthcoming as to identity of the partnership firm and of the other partners, if there be any. According to the respondent, as per the submissions of the learned Standing Counsel made on the basis of the instructions, Mr.Kishan Kaza was the original licensee(in 1994) of the shops and the premises were illegally sublet to the petitioner. Between the petitioner and the respondent there is no privity of contract.

According to the petitioner, the lease was on an annual basis and was renewed from time to time. The lease period came to an end. While so, the impugned proceedings have been issued demanding *inter alia* deposit of fine of Rs.2,70,000/- which the petitioner's claim is unauthorized and beyond the jurisdiction of the respondent.

The learned Standing Counsel for the respondent states that the governing board of the respondent- authority had resolved on 31-05-2006 to regularize all unauthorized occupations of its premises, after collecting fine amount at the rate of 18 months of the licence fee as fine. Pursuant to such Board resolution, the petitioner was called upon by the impugned communication to deposit Rs.2,70,000/-towards fine while tentatively deciding to regularize the licence in his favour.

It is alleged that there is no authority for the respondent to collect fine computed at 18 months of the licence fee for regularizing the licence. Should there be such an authority is

the question? Demonstrably the petitioner is not the licensee in respect of shop Nos.4,5,8 and 9, admittedly belonging to the respondent-authority. He has however occupied the premises with the leave of the original licensee-Mr.Kishan Kaza. It is not pleaded or demonstrated before this Court that there was a formalized contractual relationship between the petitioner and the respondent, nor is it pleaded and demonstrated that the respondent had recognized the petitioner as a licensee of the premises in question.

With a view to favour unauthorized occupants of its shops, the respondent-board has passed a resolution to regularize the licences by collecting fine computed at 18 months of the licence fee. There is pleaded no legal principle which disables such a stipulation by the respondent-authority. If the petitioner is unwilling to abide by the terms stipulated in the communication dated.26-10-2006 he is at liberty to refuse and in such event the petitioner would have no right to occupation of shop Nos.4,5,8 and 9. If the petitioner refuses to vacate the premises despite having no entitlement to continue threat, the petitioner would be evicted by the respondent-authority in accordance with law and with such expedition as commends itself to the respondent. The proceedings dated.26-10-2006 is merely in the nature of an offer to the petitioner to seek licence of the premises on fulfillment of the terms contained in the letter. The petitioner is at liberty to refuse the offer. The respondent would then be at liberty to grant lease of the shops in question after a public auction or by a tender process, calling for bids.

In the circumstances above there are no merits in the writ petition. The writ petition is dismissed at the stage of admission. The petitioner is at liberty either to accept the offer or decline the same. In the circumstances no order as to costs.

GODA RAGHURAM,J

19TH JANUARY 2007
***TSNR**